

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

KLEEN PRODUCTS LLC; R.P.R.
ENTERPRISES, INC.; MIGHTY PAC,
INC., FERRARO FOODS, INC.; FERRARO
FOODS OF NORTH CAROLINA, LLC;
DISTRIBUTORS PACKAGING GROUP,
LLC; RHE HATCO, INC.; THULE, INC.;
and CHANDLER PACKAGING, INC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

PACKAGING CORPORATION OF
AMERICA; INTERNATIONAL PAPER;
CASCADES CANADA, INC.;
NORAMPAC HOLDINGS U.S. INC.;
WEYERHAEUSER COMPANY;
GEORGIA PACIFIC LLC; TEMPLE-
INLAND INC.; TIN INC.; and SMURFIT-
STONE CONTAINER CORPORATION

Defendants.

Case No. 1:10-cv-05711

Judge Milton I. Shadur

**DEFENDANT INTERNATIONAL PAPER COMPANY'S MOTION TO DISMISS THE
CONSOLIDATED AND AMENDED COMPLAINT**

Defendant International Paper Company (“International Paper”), by its undersigned
attorneys, respectfully moves this Court pursuant to Fed. R. Civ. P. 12(b)(6) for entry of an order
dismissing the Consolidated and Amended Complaint filed on November 8, 2010 by Plaintiffs
Kleen Products LLC, R.P.R. Enterprises, Inc., Mighty Pac, Inc., Ferraro Foods, Inc., Ferraro
Foods of North Carolina, LLC, Distributors Packaging Group, LLC, RHE Hatco, Inc., Thule,
Inc. and Chandler Packaging Group, Inc. individually and on behalf of a class of those similarly
situated. As set forth fully in the accompanying Joint Memorandum in Support and in

International Paper's Supplemental Memorandum in Support, which are incorporated herein by reference, the Consolidated and Amended Complaint fails to state a claim under Section 1 of the Sherman Act against International Paper under the pleading standards set forth in Fed. R. Civ. P. 8 and by the Supreme Court in *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009).

WHEREFORE, International Paper respectfully requests that this Court enter an order granting this motion and dismissing the Consolidated and Amended Complaint.

DATED: January 14, 2011

Respectfully submitted,

/s/ Nathan P. Eimer

Nathan P. Eimer
John K. Theis
EIMER STAHL KLEVORN & SOLBERG LLP
224 South Michigan Avenue, Suite 1100
Chicago, IL 60604-2516
Tel: (312) 660-7600
Fax: (312) 692-1718
neimer@eimerstahl.com
jtheis@eimerstahl.com

Daniel W. Nelson
Joshua Lipton
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5306
(202) 955-8500
dnelson@gibsondunn.com
jlipton@gibsondunn.com

George A. Nicoud III
Austin V. Schwing
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street
San Francisco, CA 94105-2933
(415) 393-8200
tnicoud@gibsondunn.com
aschwing@gibsondunn.com

Counsel for International Paper Company

CERTIFICATE OF SERVICE

The undersigned certifies that on January 14, 2011, a true and correct copy of the foregoing **Defendant International Paper Company's Motion to Dismiss the Consolidated and Amended Complaint** was electronically filed with the Clerk of the Court for the Northern District of Illinois using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Nathan P. Eimer _____

Nathan P. Eimer
An Attorney for Defendant International Paper Company